



## POSTAL REGULATORY COMMISSION

[Docket No. N2021-1; Order No. 5875]

### Service Standard Changes

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recently-filed Postal Service request for an advisory opinion on the service standards for First-Class Mail and end-to-end Periodicals. This document invites public comments on the request and addresses several related procedural steps.

**DATES:** *Notices of intervention are due:* May 5, 2021; *Live WebEx Technical Conference:* April 30, 2021, at 11:00 a.m, Eastern Daylight Time, Virtual.

**ADDRESSES:** Submit notices of intervention electronically via the Commission's Filing Online system at <http://www.prc.gov>. Persons interested in intervening who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT**.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202-789-6820.

### SUPPLEMENTARY INFORMATION:

#### Table of Contents

- I. Introduction
- II. Pre-Filing Issues
- III. The Request
- IV. Initial Administrative Actions
- V. Ordering Paragraphs

#### I. Introduction

On April 21, 2021, the Postal Service filed a request for an advisory opinion from the Commission regarding planned changes to the service

standards for First-Class Mail and end-to-end Periodicals.<sup>1</sup> The intended effective date of the Postal Service's planned changes is no earlier than September 1, 2021. Request at 2. The Request was filed pursuant to 39 U.S.C. 3661 and 39 CFR part 3020. Before issuing its advisory opinion, the Commission shall accord an opportunity for a formal, on-the-record hearing pursuant to 5 U.S.C. 556 and 557. 39 U.S.C. 3661(c). This Order provides information on the Postal Service's planned changes, explains and establishes the process for the on-the-record hearing, and lays out the procedural schedule to be followed in this case.

## **II. Pre-Filing Issues**

On March 23, 2021, the Postal Service published a ten-year strategic plan announcing potential changes intended to achieve financial stability and service excellence.<sup>2</sup> In conjunction with this publication, the Postal Service also filed a notice of its intent to conduct a pre-filing conference regarding its proposed changes to the service standards for First-Class Mail and end-to-end Periodicals, which would "generally affect service on a nationwide or substantially nationwide basis."<sup>3</sup> Further, the Postal Service announced that it would propose amendments to the existing service standards for First-Class Mail and end-to-

---

<sup>1</sup> United States Postal Service Request for an Advisory Opinion on Changes in the Nature of Postal Services, April 21, 2021 (Request).

<sup>2</sup> See United States Postal Service, *Delivering for America: Our Vision and Ten-Year Plan to Achieve Financial Sustainability and Service Excellence*, March 23, 2021, at 3, available at, [https://about.usps.com/what/strategic-plans/delivering-for-america/assets/USPS\\_Delivering-For-America.pdf](https://about.usps.com/what/strategic-plans/delivering-for-america/assets/USPS_Delivering-For-America.pdf) (Postal Service's Strategic Plan). Further information related to the Postal Service's Strategic Plan is available at, <https://about.usps.com/what/strategic-plans/delivering-for-america/>.

<sup>3</sup> Notice of Pre-Filing Conference, March 23, 2021, at 1 (Notice) (quoting 39 U.S.C. 3661(b)).

end Periodicals appearing in 39 CFR part 121. See Notice at 1; see *also* Request at 1.<sup>4</sup>

On March 24, 2021, the Commission issued Order No. 5848, which established Docket No. N2021-1 to consider the Postal Service's proposed changes, notified the public concerning the Postal Service's pre-filing conference, and appointed a Public Representative.<sup>5</sup> Due to the COVID-19 pandemic, the Postal Service held its pre-filing conference virtually on April 6, 2021, from 1:00 p.m. to 3:00 p.m. Eastern Daylight Time (EDT). See Request at 2; see *also* Notice at 1, 4. The Postal Service asserts that it completed the pre-filing requirements appearing in 39 CFR 3020.111 and certifies that it has made a good faith effort to address concerns of interested persons about the Postal Service's proposal raised at the pre-filing conference. See Request at 2.

### **III. The Request**

#### **A. The Postal Service's Planned Changes**

The Postal Service plans for these changes to become effective no earlier than September 1, 2021. See *id.* at 2. For First-Class Mail within the contiguous United States, the Postal Service states that its proposal would narrow the scope of the existing 2-Day and 3-Day standards; instead 4-Day and 5-Day standards would apply to certain First-Class Mail traveling longer distances between origin and destination. See *id.* at 3.

The Postal Service states that most First-Class Mail volume will be unaffected by the proposed changes. See *id.* at 4. It observes that First-Class

---

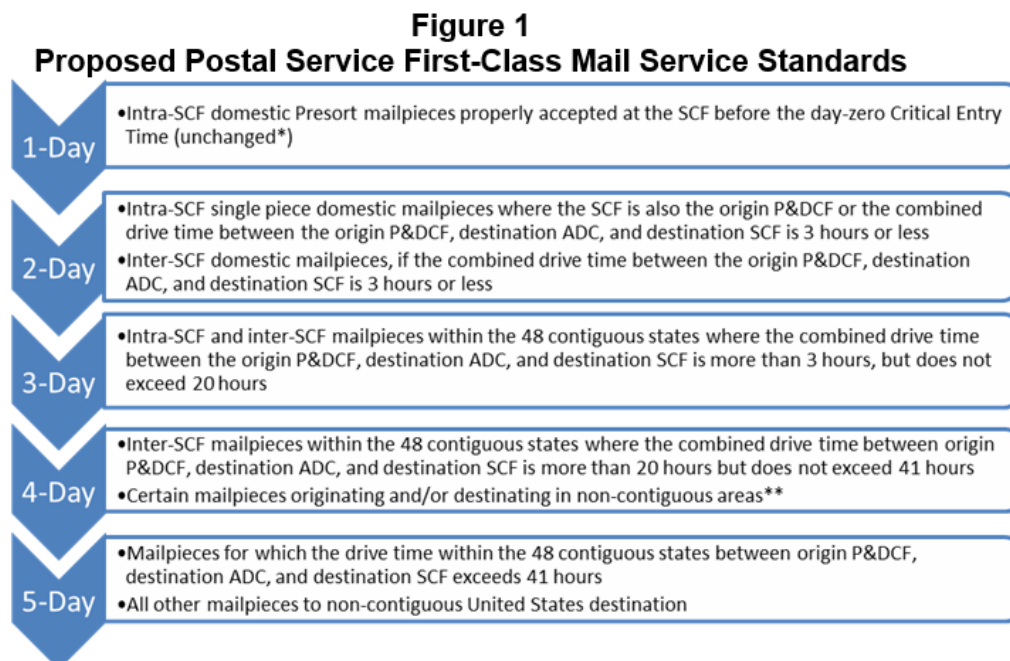
<sup>4</sup> These proposed changes were published in the Federal Register on April 23, 2021 and are available for public review at, [https://www.govinfo.gov/content/pkg/FR-2021-04-23/pdf/2021-08463.pdf?utm\\_source=federalregister.gov&utm\\_medium=email&utm\\_campaign=subscription+mailing+list](https://www.govinfo.gov/content/pkg/FR-2021-04-23/pdf/2021-08463.pdf?utm_source=federalregister.gov&utm_medium=email&utm_campaign=subscription+mailing+list).

<sup>5</sup> Notice and Order Concerning the Postal Service's Pre-filing Conference, March 24, 2021, at 1-2, 4 (Order No. 5848).

Mail subject to the existing 1-Day (Overnight) service standard will not be affected. See *id.* at 3-4. Overall, the Postal Service asserts that approximately 70 percent of First-Class Mail volume would be subject to the proposed 1-Day, 2-Day, or 3-Day service standards; approximately 21 percent of First-Class Mail volume would be subject to the proposed 4-Day service standard; and approximately 10 percent of First-Class Mail volume would be subject to the proposed 5-Day service standard.<sup>6</sup>

The Postal Service plans to apply a 3-6-Day standard to certain end-to-end Periodicals merged with First-Class Mail for surface transportation, specifying that the Periodicals standard would equal the sum of 1 day plus the applicable First-Class Mail service standard. See *id.* at 6.

Specifically, the Postal Service proposes to apply the following standards to First-Class Mail.



<sup>6</sup> See *id.* at 4. These figures total 101 percent due to rounding.

Notes:

\* The existing First-Class Mail 1-Day service standard is codified in 39 CFR 121.1(a)(2).

\*\* Specifically, this refers to the following:

- Mailpieces originating in the contiguous 48 states destined to the city of Anchorage, Alaska, the 968 3-Digit ZIP Code area in Hawaii, or the 006, 007, or 009 3-Digit ZIP Code areas in Puerto Rico.
- Mailpieces originating in the 006, 007, or 009 3-Digit ZIP Code areas in Puerto Rico and the destination is in the contiguous 48 states.
- Mailpieces originating in Hawaii and the destination is in Guam, or vice versa.
- Mailpieces originating in Hawaii and the destination is in American Samoa, or vice versa.
- Mailpieces for which both the origin and destination are within Alaska.

Request at 5-6.

“SCF” refers to “Sectional Center Facility.” *Id.* at 3. With respect to a particular SCF, “Intra-SCF” refers to mailpieces that originate and ~~destinate~~ within the 3-Digit ZIP Code areas assigned to that SCF in the Domestic Mail Manual and “Inter-SCF” refers to mailpieces that originate outside those 3-Digit ZIP Code areas. Revised Service Standards for Market-Dominant Mail Products, 77 Fed. Reg. 31,190, 31,194, n.12 (May 25, 2012) (codified at 39 CFR pt. 121). “P&DCF” refers to Processing & Distribution Center or Facility. Notice at 2. “ADC” refers to Area Distribution Center. *Id.*

Source: Request at 3-6.

## B. The Postal Service's Position

The Postal Service states that the existing service standards do not reflect declining mail volumes and that attempting to meet the existing service standards has led to high costs, transportation inefficiencies, and difficulties in providing reliable and consistent service performance. See Request at 6. The Postal Service explains that transporting mail by surface (trucks) is more reliable and cost-effective than air transportation. See *id.* at 7. The Postal Service asserts that the proposed changes would allow the Postal Service to use surface rather than air transportation for more mailpieces between additional Postal Service origin and destination processing facilities (OD Pairs). See *id.* at 3, 7-8. The Postal Service states that the proposed changes could generate a net improvement to the Postal Service's finances of approximately \$174.8 million annually, when considering transportation cost savings. See *id.* at 9.

The Postal Service asserts that implementing the proposed changes would enable it to: provide more reliable and consistent service performance, improve its ability to run according to its operating plans and optimize its surface transportation network, increase its use of more cost-effective air carriers for

volume that will continue to be transported by air (such as volume destined for non-contiguous areas), achieve significant cost savings due to the creation of a more efficient transportation network, and implement future operational benefits. *See id.* at 6-9. It adds that the proposed changes are a key component of the Postal Service's Strategic Plan, intended to achieve financial stability and service excellence. *See id.* at 9-10.

Further, the Postal Service asserts that the proposed changes achieve the objectives of 39 U.S.C. 3691(b)(1) better than the existing service standards. *See id.* at 10-12. The Postal Service contends that it has taken into account the factors set forth in 39 U.S.C. 3691(c), including the broader policies of title 39, United States Code, as required by 39 U.S.C. 3691(c)(8). *See id.* at 10-13. The Postal Service discusses how it will continue to satisfy the universal service provisions appearing in 39 U.S.C. 101, 403, and 3661(a) under the proposed service standards. *See id.*

### C. The Postal Service's Direct Case

The Postal Service is required to file its direct case along with the Request. *See* 39 CFR 3020.114. The Postal Service's direct case includes all of the prepared evidence and testimony upon which the Postal Service proposes to rely on in order to establish that its proposal accords with and conforms to the policies of title 39, United States Code. *See id.* The Postal Service provides the direct testimony of five witnesses and identifies a sixth individual to serve as its institutional witness and provide information relevant to the Postal Service's proposal that is not provided by other Postal Service witnesses.

**Table 1**  
**Postal Service Witnesses**

<b>Witness</b>	<b>Topic(s)</b>	<b>Designation</b>
<b>1. Robert Cintron</b>	The Postal Service's ability to meet the existing service standards, the proposed service standard changes and their benefits	USPS-T-1
<b>2. Curtis Whiteman</b>	The Postal Service's financial situation and the estimated financial impact of the proposed changes on the Postal Service's financial situation (including estimated cost savings and the estimated net financial impact)	USPS-T-2
<b>3. Stephen Hagenstein</b>	How the proposed service standard changes would affect current mail volume in the contiguous United States (including the actual changes to the OD Pairs)	USPS-T-3
<b>4. Steven Monteith</b>	How the proposed service standard changes may impact customer satisfaction and the tools/techniques used by the Postal Service to communicate with its customers regarding the proposed service standard changes	USPS-T-4
<b>5. Thomas Thress</b>	Econometric analysis to estimate the potential contribution impact that could result from implementing the proposed service standard changes	USPS-T-5
<b>6. Sharon Owens</b>	Institutional witness capable of providing information relevant to the Postal Service's proposal that is not provided by other Postal Service witnesses	None filed

Source: Request at 2, 4, 6-9.

Additionally, the Postal Service filed eight library references, six of which are available to the public and two of which are designated as non-public material.

**Table 2**  
**Postal Service Library References**

Designation	Title	Sponsoring Witness
• LR-N2021-1-1	Model Input Data	Stephen Hagenstein
• LR-N2021-1-2	Model Defining Tools	Stephen Hagenstein
• LR-N2021-1-3	Model Results	Stephen Hagenstein
• LR-N2021-1-4	Calculating Transportation Cost Changes	Curtis Whiteman
• LR-N2021-1-5	Econometric Analysis of Impact of Delivery Service Standards on First-Class Mail and Periodicals Mail	Thomas Thress
• LR-N2021-1-6	Informed Visibility Service Performance Metrics (Enterprise Analytics) Data	Robert Cintron
• LR-N2021-1-NP1	Model Input Data & Tools	Stephen Hagenstein
• LR-N2021-1-NP2	Calculating Transportation Cost Changes	Curtis Whiteman

Note: The Postal Service filed the two non-public library references under seal (shaded in the above table), asserting that they consist of detailed volume and cost information regarding purchased transportation as well as data that reveal volume, modes of transportation, and transportation windows for competitive products. See Notice of United States Postal Service of Filing of Library References and Application for Non-Public Treatment, April 21, 2021, Application of the Postal Service for Non-Public Treatment, at 1.

Source: Notice of United States Postal Service of Filing of Library References and Application for Non-Public Treatment, April 21, 2021.

#### **IV. Initial Administrative Actions**

##### **A. General Procedures**

The procedural rules in 39 CFR part 3020 apply to Docket No. N2021-1. Before issuing its advisory opinion, the Commission shall accord an opportunity for a formal, on-the-record hearing pursuant to 5 U.S.C. 556 and 557. 39 U.S.C. 3661(c). The Commission will sit *en banc* for Docket No. N2021-1. See 39 CFR 3020.122(b). Due to the COVID-19 pandemic, the Commission is conducting all business, including any hearing or public meeting for Docket No. N2021-1 virtually and not in person.

##### **B. Scope**



Docket No. N2021-1 is limited in scope to the specific changes proposed by the Postal Service in its Request. See 39 CFR 3020.102(b). To the extent that participants raise alternative proposals and present reasons why those alternatives may be superior to the Postal Service's proposal, the Commission would interpret such discussion as critiquing the specific changes proposed by the Postal Service in its Request.<sup>7</sup> However, the Commission would not evaluate or opine on the merits of such alternative proposal in its advisory opinion. See Order No. 2080 at 18. Pursuant to its discretion, the Commission may undertake evaluation of alternatives or other issues raised by participants in separate proceedings (such as special studies or public inquires). See 39 CFR 3020.102(b). Moreover, any interested person may petition the Commission to initiate a separate proceeding (such as a rulemaking or public inquiry) at any time. See 39 CFR 3010.201(b) (initiation of notice and comment proceedings).

#### C. Procedural Schedule

The Commission establishes a procedural schedule, which appears below the signature of this Order. See 39 CFR 3010.151, 3020.110; *see also* 39 CFR part 3020 Appendix A. These dates may be changed only if good cause is shown, if the Commission later determines that the Request is incomplete, if the Commission determines that the Postal Service has significantly modified the Request, or for other reasons as determined by the Commission. See 39 CFR 3020.110(b) and (c).

#### D. How to Access Material Filed in this Proceeding

##### 1. Using the Commission's Website

---

<sup>7</sup> See Docket No. RM2012-4, Order Adopting Amended Rules of Procedure for Nature of Service Proceedings Under 39 U.S.C. 3661, May 20, 2014, at 18 (Order No. 2080).

The public portions of the Postal Service's filing are available for review on the Commission's website (<http://www.prc.gov>). The Postal Service's electronic filing of the Request and prepared direct evidence effectively serves the persons who participated in the pre-filing conference. See 39 CFR 3020.104. Other material filed in this proceeding will be available for review on the Commission's website, unless the information contained therein is subject to an application for non-public treatment. The Commission's rules on how to file and access non-public material appear in 39 CFR part 3011.

## 2. Using Methods Other than the Commission's Website

The Postal Service must serve hard copies of its Request and prepared direct evidence "only upon those persons who have notified the Postal Service, in writing, during the pre-filing conference(s), that they do not have access to the Commission's website." 39 CFR 3020.104. If you demonstrate that you are unable to effectively use the Commission's Filing Online system or are unable to access the internet, then the Secretary of the Commission will serve material filed in Docket No. N2021-1 upon you via First-Class Mail. See 39 CFR 3010.127(b) and (c). You may request physical service by mailing a document demonstrating your need to the Office of Secretary and Administration, Postal Regulatory Commission, 901 New York Avenue NW, Suite 200, Washington, DC 20268-0001. Service may be delayed due to the impact of the COVID-19 pandemic. Pursuant to 39 CFR 3010.127(c), the Secretary shall maintain a service list identifying no more than two individuals designated for physical service of documents for each party intervening in this proceeding. Accordingly, each party must ensure that its listing is accurate and should promptly notify the Secretary of any errors or changes. See 39 CFR 3010.127(c).

## E. How to File Material in this Proceeding

## 1. Using the Commission's Filing Online system

Except as provided in 39 CFR 3010.120(a), all material filed with the Commission shall be submitted in electronic format using the Filing Online system, which is available over the internet through the Commission's website. The Commission's website accepts filings during the Commission's regular business hours, which are from 8:00 a.m. through 4:30 p.m. EDT, except for Saturdays, Sundays, and Federal holidays. A guide to using the Filing Online system, including how to create an account, is available at:

<https://www.prc.gov/how-to-participate>. If you have questions about how to use the Filing Online system, please contact the dockets clerk by email at [dockets@prc.gov](mailto:dockets@prc.gov) or telephone at (202) 789-6847. Please be advised that the dockets clerk can only answer procedural questions but may not provide legal advice or recommendations.

## 2. Using Methods Other than the Commission's Filing Online system

Material may be filed using a method other than the Commission's website only if at least one of the following exceptions applies:

- The material cannot reasonably be converted to electronic format,
- The material contains non-public information (see 39 CFR part 3011),
- The filer is unable to effectively use the Commission's Filing Online system and the document is 10 pages or fewer, or
- The Secretary has approved an exception to the requirements to use the Commission's Filing Online system based on a showing of good cause.

39 CFR 3010.120(a).

Material subject to these exceptions may be filed by mail to the Office of Secretary and Administration, Postal Regulatory Commission, 901 New York Avenue NW, Suite 200, Washington, DC 20268-0001. Due to the agency's virtual status, posting mailed materials to the Commission's website may be delayed. Accordingly, before mailing materials, it is strongly recommended that individuals contact the dockets clerk by email at *dockets@prc.gov* or telephone at (202) 789-6847.

## F. Technical Conference

### 1. Date and Purpose

A technical conference will be held live via WebEx on April 30, 2021, at 11:00 a.m. EDT.<sup>8</sup> The technical conference is an informal, off-the-record opportunity to clarify technical issues as well as to identify and request information relevant to evaluating the Postal Service's proposed changes. See 39 CFR 3020.115(c). At the technical conference, the Postal Service will make available for questioning its five witnesses whose direct testimony was filed along with the Request and a sixth individual to serve as its institutional witness, who will provide information relevant to the Postal Service's proposal that is not provided by other Postal Service witnesses. See Request at 2, 4, 6-9; see *also* 39 CFR 3020.113(b)(6)-(7), 3020.115(b). The names and topics to which these six individuals are prepared to address are summarized above in Section III.C., Table 2, *infra*.

### 2. How to Participate in the Technical Conference

---

<sup>8</sup> Normally, this technical conference would be set for day 10 (Saturday May 1, 2021) and extended to Monday May 3, 2021, in accordance with 39 CFR 3020.103; however, the Commission is taking into account the National Postal Forum scheduled for May 3 and 4, 2021.

To participate in this live technical conference and have the opportunity to ask questions of the Postal Service's six witnesses, an individual need not formally intervene in this docket, but must register in advance as follows. Each individual seeking to participate in the live WebEx using an individual device (e.g., a desktop computer, laptop, tablet, or smart phone) must register by sending an e-mail to *N2021-1registration@prc.gov* with the subject line "Registration" by April 27, 2021. In order to facilitate orderly public participation, this email shall provide the following information:

- your first and last name;
- your e-mail address (to receive the WebEx link);
- whether or not you would like the moderator to allow you the opportunity to question the Postal Service's witness(es), and if so, which witness(es) you would like to question and/or the topic(s) of your question(s); and
- your affiliation (if you are participating in your capacity as an employee, officer, or member of an entity such as a corporation, association, or government agency).

The *N2021-1registration@prc.gov* email address is established solely for the exchange of information relating to the logistics of registering for and participating in the technical conference.<sup>9</sup> No information related to the substance of the Postal Service's Request shall be communicated, nor shall any information provided by participants apart from the list identified above be reviewed or considered. Only documents filed with the Commission's docket system will be considered by the Commission. Before the technical conference,

---

<sup>9</sup> Please refer to the Commission's privacy policy which is available at, <https://www.prc.gov/privacy>.

the Commission will e-mail each identified individual a WebEx link, an explanation of how to connect to the technical conference, and information regarding the schedule and procedures to be followed.

### 3. Availability of Materials and Recording

To facilitate discussion of the matters to be explored at the technical conference, the Postal Service shall, if necessary, file with the Commission any materials not already filed in Docket No. N2021-1 (such as PowerPoint presentations or Excel spreadsheets) that the Postal Service expects to present at the technical conference by April 29, 2021. Doing so will foster an orderly discussion of the matters under consideration and facilitate the ability of individuals to access these materials should technical issues arise for any participants during the live WebEx. After the live WebEx, if feasible, the Commission shall make the recording available and provide notice of where to access it in this docket. Participants in the WebEx, by participating, consent to such recording and posting. Information obtained during the technical conference or as a result of the technical conference is not part of the decisional record, unless admitted under the standards of 39 CFR 3010.322. See *id.* section 3020.115(e).

### G. How to Intervene (Become a Party to this Proceeding)

To become a party to this proceeding, a person or entity must file a notice of intervention by May 5, 2021.<sup>10</sup> This filing must clearly and concisely state: the nature and extent of the intervenor's interest in the issues (including the postal services used), the intervenor's position on the proposed changes in services (to the extent known), whether or not the intervenor requests a hearing, and whether

---

<sup>10</sup> Neither the Public Representative nor the Postal Service must file a notice of intervention; both are automatically deemed parties to this proceeding. See 39 CFR 3010.142(a).

or not the intervenor intends to actively participate in the hearing. See 39 CFR 3010.142(b). Page one of this filing shall contain the name and full mailing address of no more than two persons who are to receive service, when necessary, of any documents relating to this proceeding. See *id.* A party may participate in discovery; file testimony and evidence; conduct written examination of witnesses; conduct limited oral cross-examination; file briefs, motions, and objections; and present argument before the Commission or the presiding officer. See *id.* sections 3010.142(a); 3020.122(e). An opposition to a notice of intervention is due within 3 days after the notice of intervention is filed. See *id.* section 3010.142(d)(2).

#### H. Discovery

##### 1. Generally Applicable Discovery Procedures

Discovery requests may be propounded upon filing a notice of intervention. Discovery that is reasonably calculated to lead to the admissible evidence is allowed. See *id.* section 3020.116(a). Each answer to a discovery request is due within 7 days after the discovery request is filed.<sup>11</sup> Any motion seeking to be excused from answering any discovery request is due within 3 days after the discovery request is filed. See 39 CFR 3020.105(b)(1). Any response to such motion is due within 2 days after the motion is filed. See *id.* section 3020.105(b)(2). The Commission expects parties to make judicious use of discovery, objections, and motions practice, and encourages parties to make every effort to confer to resolve disputes informally before bringing disputes to the Commission to resolve.

##### 2. Discovery Deadlines for the Postal Service's Direct Case

---

<sup>11</sup> See 39 CFR 3020.117(b)(4), 3020.118(b)(1), 3020.119(b)(1). Filing an opposition to a notice of intervention shall not delay this deadline. See 39 CFR 3010.142(d)(3).

All discovery requests regarding the Postal Service's direct case must be filed by May 19, 2021. All discovery answers by the Postal Service must be filed by May 26, 2021. The parties are urged to initiate discovery promptly, rather than to defer filing requests and answers to the end of the period established by the Commission.

#### I. Rebuttal Case Deadlines

A rebuttal case is any evidence and testimony offered to disprove or contradict the evidence and testimony submitted by the Postal Service. A rebuttal case does not include cross-examination of the Postal Service's witnesses or argument submitted via a brief or statement of position. Any party that intends to file a rebuttal case must file a notice confirming its intent to do so by May 28, 2021. Any rebuttal case, consisting of any testimony and all materials in support of the case, must be filed by June 2, 2021.

#### J. Surrebuttal Case Deadlines

A surrebuttal case is any evidence and testimony offered to disprove or contradict the evidence and testimony submitted by the rebutting party. A surrebuttal case does not include cross-examination of the rebutting party's witnesses or argument submitted via a brief or statement of position. Any party that intends to file surrebuttal case must obtain the Commission's prior approval. See 39 CFR 3020.121(b). Any motion for leave to file a surrebuttal case is due June 4, 2021. Any response to such motion is due June 7, 2021. Any surrebuttal case, consisting of any testimony and all materials in support of the case, must be filed by June 9, 2021.

#### K. Hearing Dates

If no party files a notice of intent to file a rebuttal case by May 28, 2021, then the hearing of the Postal Service's direct case shall begin June 2, 2021 and



end June 4, 2021. If any party files a notice of intent to file a rebuttal case by May 28, 2021 but no surrebuttal testimony will be presented, then the hearing of the Postal Service's direct case shall begin June 9, 2021, and the hearing of the rebuttal case shall end June 11, 2021. If any party files a notice of intent to file a rebuttal case by May 28, 2021, and the Commission approves the presentation of surrebuttal testimony, then the hearing of the Postal Service's direct case shall begin June 14, 2021, and the hearing of the surrebuttal case shall end June 16, 2021.

#### L. Presentation of Evidence and Testimony

Evidence and testimony shall be in writing and may be accompanied by a trial brief or legal memoranda. *Id.* section 3020.122(e)(1). Whenever possible and particularly for factual or statistical evidence, written cross-examination will be used in lieu of oral cross-examination. *Id.* section 3020.122(e)(2).<sup>12</sup> Oral cross-examination will be allowed to clarify written cross-examination and/or to test assumptions, conclusions, or other opinion evidence. *Id.* section 3020.122(e)(3). Any party that intends to conduct oral cross-examination shall file a notice of intent to do so at least 3 days before the announced appearance of the witness. *Id.* section 3020.122(e)(3).

#### M. Presentation of Argument

##### 1. General Procedures

Any person that has intervened in Docket No. N2021-1 (and thereby formally became a party to this proceeding) may submit written argument by filing a brief or a statement of position; they also may request to present oral argument

---

<sup>12</sup> This rule also requires designation of written cross-examination and provision of hard copies. 39 CFR 3020.122(e)(2). The Commission or presiding officer shall provide guidance on designation for a virtual hearing if necessary and in advance of such hearing.

at the hearing. See 39 CFR 3020.123, *see also* 39 CFR 3010.142(a). Any person that has not intervened in Docket No. N2021-1 may submit written argument by filing a statement of position. See 39 CFR 3020.123(g), *see also* 39 CFR 3010.142(a).

## 2. Presentation of Written Argument

A brief is a written document that addresses relevant legal and evidentiary issues for the Commission to consider and must adhere to the requirements of 39 CFR 3020.123(a)-(f). A statement of position is a less formal version of a brief that describes the filer's position on the Request and the information on the existing record in support of that position. See 39 CFR 3020.123(g).

### a. Briefing Deadlines

Assuming that no rebuttal case is filed, initial briefs are due June 11, 2021, and reply briefs are due June 18, 2021. If any party files a notice confirming its intent to file a rebuttal case by May 28, 2021, then the briefing schedule may be revised.

### b. Deadline for Statement of Position

Any interested person, including anyone that has not filed a notice of intervention and become a party to this proceeding, may file a statement of position. See 39 CFR 3020.123(g), *see also* 39 CFR 3010.142(a). A statement of position is limited to the existing record and may not include any new evidentiary material. See 39 CFR 3020.123(g). Filings styled as a brief or comments, conforming with the content and timing requirements, shall be deemed statements of positions. Any statement of position is due June 11, 2021.

## 3. Request to Present Oral Argument

Oral argument has not historically been part of N-cases; the Commission would only grant a request to present oral argument upon an appropriate showing of need by the presenting party. See Order No. 2080 at 53. The Commission or presiding officer shall set a deadline for filing a request to present oral argument at the hearing.

#### N. The Commission's Advisory Opinion

Unless there is a determination of good cause for extension, the Commission shall issue its advisory opinion within 90 days of the filing of the Request. See 39 CFR 3020.102(a). Therefore, absent a determination of good cause for extension, the Commission shall issue its advisory opinion in this proceeding by July 20, 2021. "The opinion shall be in writing and shall include a certification by each Commissioner agreeing with the opinion that in his [or her] judgment the opinion conforms to the policies established under [title 39, United States Code]." 39 U.S.C. 3661(c). The advisory opinion shall address the specific changes proposed by the Postal Service in the nature of postal services. See 39 CFR 3020.102(b).

#### O. Public Representative

Pursuant to 39 U.S.C. 3661(c), Samuel M. Poole shall continue to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding. See Order No. 5848 at 4.

### V. Ordering Paragraphs

*It is ordered:*

1. The procedural schedule for this proceeding is set forth below the signature of this order.

2. Pursuant to 39 U.S.C. 3661(c), Samuel M. Poole shall continue to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

3. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

**Erica A. Barker,**

*Secretary.*

## Procedural Schedule for Docket No. N2021-1

(Established by the Commission, April 23, 2021)

### Technical Conference Dates:

Deadline to Email <i>N2021-1registration@prc.gov</i> to Register to Participate in the Live Technical Conference via WebEx	April 27, 2021
Filing of the Postal Service's Materials for the Technical Conference	April 29, 2021
Technical Conference (live via WebEx)	April 30, 2021, at 11:00 a.m. Eastern Daylight Time

### Intervention Deadline:

Filing of Notice of Intervention	May 5, 2021
----------------------------------	-------------

### Discovery Deadlines for the Postal Service's Direct Case:

Filing of Discovery Requests	May 19, 2021
Filing of the Postal Service's Answers to Discovery	May 26, 2021

### Rebuttal Case Deadlines (if applicable):

Filing of Notice Confirming Intent to File a Rebuttal Case	May 28, 2021
Filing of Rebuttal Case	June 2, 2021

### Surrebuttal Case Deadlines (if applicable):

Filing of Motion for Leave to File Surrebuttal Case	June 4, 2021
Filing of Response to Motion for Leave to File Surrebuttal Case	June 7, 2021
Filing of Surrebuttal Case (if authorized)	June 9, 2021

**Hearing Dates:**

Hearings (with no Rebuttal Case)	June 2 to 4, 2021
Hearings (with Rebuttal Case, but no authorized Surrebuttal Case)	June 9 to 11, 2021
Hearings (with Rebuttal Case and authorized Surrebuttal Case)	June 14 to 16, 2021

**Briefing Deadlines:**

Filing of Initial Briefs (with no Rebuttal Case)	June 11, 2021
Filing of Reply Briefs (with no Rebuttal Case)	June 18, 2021

**Statement of Position Deadline:**

Filing of Statement of Position (with no Rebuttal Case)	June 11, 2021
---	---------------

**Advisory Opinion Deadline:**

Filing of Advisory Opinion (absent determination of good cause for extension)	July 20, 2021
---	---------------

[FR Doc. 2021-08890 Filed: 4/28/2021 8:45 am; Publication Date: 4/29/2021]